THE HONOURABLE SRI JUSTICE

A.GOPAL REDDY

W.P.No.13333 of 1994

Between:

1.The State of A.P. through Sub.Divisional Forest Officer,

Mahadevapoor, Karimnagar District and another.

..Petitioners.

and

1. S.Chinna Ramaiah and others ..Respondents.

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Oral Order:

The State of Andhra Pradesh through Sub-Divisional Forest Officer obtained a Rule from this Court calling upon the respondents to show cause why a Writ in the nature of Certiorari should not be issued against the proceedings in POR No.22/34/14/C/1993-94 dated 15-06-1994 and to quash the same.

On seizing the vehicle bearing No.AP 15 T 9209 tractor and trailor, which was involved in forest offence, the same was produced before the Authorized Officer

under Section 44(2A) of A.P.Forest Act 1967 who initiated confiscation proceedings. On referring the matter of seizure to the Judicial First Class Magistate, Manthani the 1st respondent—owner of tractor and trailor filed Crl.M.P.No.1220 of 1994 before the Magistrate for release of the vehicle. In spite of opposition made by the Forest Range Officer the learned Magistrate by the impugned order dated 15-06-1994 ordered for release of the vehicle on 1st respondent executing a self bond for Rs.1,50,000/- with two sureties for the like sum and the original 'C' book shall be kept in the court till the disposal of the case by the authorize officer.

It is now fairly well settled that when the vehicle is involved in a forest offence and once confiscation proceedings are pending before the Authorized Officer, the jurisdiction of the Criminal Court is barred. The remedy, if any, for the owner of the vehicle is to move the Authorized Officer for interim release of the vehicle who can order for release of the vehicle on such terms and conditions imposed by him and any such order passed by the Authorized Officer refusing to release the vehicle will be subject to judicial review or appeal, as the case may be. (see ***State of A.P. vs. P.K.Mahammed*** (1978 (1) APLJ 391) which was approved in ***Mohd. Yaseen vs. Forest Range Officer, Rayachoti*** (1980 (1) ALT 8) which has been further approved by the Supreme Court in ***Divl. Forest Officer vs. G.V.Sudhakar Rao*** (AIR 1986 SC 328)).

Recently the Apex Court in considering Section 59(A) and (G) (inserted by the State of West Bengal to the Forest Act) held that even the High Court in exercise of inherent powers cannot order for interim release of the vehicle but can exercise power of judicial review against the order passed by the Authorized Officer.

Learned Government Pleader for Forest brought to the notice of the Court that the Authorized Officer passed an order confiscating the vehicle on 12-04-1995, against which the owner has carried the matter in appeal before the District Court.

Once the order passed by the Magistrate is without jurisdiction the same cannot be sustained and it is accordingly quashed. Rule is made absolute. The 1st respondent is at liberty to move the District Court and can pursue the appeal pending before it.

Writ petition is accordingly allowed. No costs.

_____ A.GOPAL REDDY, J.

13-02-2006

Murthy